REMARKS

This amendment is being filed concurrently with the filing of a Request for Continued Examination (RCE) in response to the outstanding Final Office Action dated September 4, 2008.

For at least the following reasons, Applicants respectfully submit that each of the presently pending claims is in condition for allowance.

Status of the Claims

Claims 8, 11, 16 and 17 are currently pending and remain rejected in this application Claim 8 has been amended. No new matter has been added.

Claim Rejections Under 35 U.S.C. § 102

Claims 8, 11, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,160,200 to Ehrnsperger et al. ("*Ehrnsperger*"). Applicants respectfully traverse. Applicants submit that in order for a reference to anticipate a claim, the reference must disclose each and every limitation of the claimed invention. *Dana Corp. v. Am. Axle & Mfg., Inc.*, 61 USPQ 2d 1609 (Fed. Cir. 2002).

Applicants have amended claim 8 to recite:

> [A] support layer substantially entirely and directly coating said skin-protective ingredient containing layer for retaining said skin-protective ingredient on said one surface of said top sheet and isolating said skin-protective ingredient containing layer from the skin of the wearer, said support layer being formed of polyethylene oxide having a molecular weight of from 700 to 1,000 and having a melting point from 35°C to 40°C and capable of releasing the skin-protective ingredient by dissolving when placed in contact with the skin of the wearer,

Support for this amendment can be found in paragraph [0049] of the Published Application US 2001/0009991 A1.

Ehrnsperger discloses a directionally preferential waste passage member for use with a disposable absorbent article. The waste passage member includes a soluble material, which is dissolved by substances found in human or mammalian bodily waste (*Ehrnsperger*, col. 10, lines 36-41). *Ehrnsperger* also discloses that various properties of the body discharges may trigger or initiate the dissolution of material, including, but not limited to, moisture, pH, enzymes, temperature, pressure, chemicals (e.g. salts, proteins) and the like (*Ehrnsperger,* col. 10, lines 50-53). Thus, "upon excretion, the bodily wastes dissolve a portion of the waste passage member, thereby eliminating the structural integrity of at least a portion of the waste passage member, preferably in the region of the contact between waste and the waste passage member, allowing passage of the waste." (*Ehrnsperger,* col. 10, lines 44-49).

Applicants submit that the dissolving of the soluble member of *Ehrnsperger* is not related to the release of the skin-protective ingredient onto the skin, but with the elimination of waste away from the skin. Thus, while the skin-protective ingredient of *Ehrnsperger* may be disposed on any part of the topsheet, it is not at all related to the dissolving of the soluble member which is disposed on only the central part of the sheet where waste is introduced (*see Ehrnsperger,* Figure 1). Thus, as amended, the limitation of claim 8 that the support member be "capable of releasing the skin-protective ingredient by dissolving when placed in contact with the skin of the wearer" is lacking.

Furthermore, claim 8 recites that support layer be "formed of polyethylene oxide." The Examiner incorrectly identifies a body adhering composition 80 that may be formed of polyethylene oxide in *Ehrnsperger* as the support layer of claim 8. However, the body adhering composition does not retain a skin-protective ingredient or isolate the skin-protective ingredient from the skin of the wearer. Rather, the body adhering composition only serves to "hold the waste passage member 60 close to the wearer's skin" (col. 14, lines 24-27). This difference can be further appreciated in view of the fact that the support layer of claim 8 is required to have a "melting point from 35°C to 40°C," so as to release the skin-protective ingredients, while the body adhering composition of *Ehrnsperger* has no required melting point. Finally, as illustrated in Figure 6, the polyethylene

body adhering composition of *Ehrnsperger* is only formed on the circumference of the absorbent article.

Finally, claim 8 recites:

> [A] support layer substantially entirely and directly coating said skin-protective ingredient...[the] support layer being formed of polyethylene oxide having a molecular weight of from 700 to 1,000 and having a melting point from 35°C to 40°C.

The Examiner incorrectly asserts that *Ehrnsperger* discloses a polyethylene oxide support layer having a molecular weight of from 700 to 1,000 and having a melting point from 35°C to 40°C. MPEP 2112.01(I) states that "a *prima facie* case [that the product of the applicant and the prior art are the same] can be rebutted by evidence showing that the prior art products do not necessarily possess the characteristics of the claimed product. *In re Best,* 562 F.2d at 1255, 195 USPQ at 433. See also *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985)." Applicants therefore submit that the polyethylene oxide body adhering composition of *Ehrnsperger* does not necessarily possess the characteristics of the claimed product because the melting point of a polyethylene oxide composition depends on its molecular weight. As support, Applicants submit **Exhibit A**, a composition profile of polyethylene oxide (or polyethylene glycol) from Mallinckrodt Chemicals. Specifically, Applicants point to the Section 9, entitled "Physical and Chemical Properties," which states that "Melting point increases as molecular weight increases: PEG 400 = 4-8C (39-46F) PEG 600 = 20-25C (68-77F) PEG1500 = 44-48C (111-118F) PEG 4000 = 54-58C (129-136F) PEG 6000 = 56-63C (133-145F)."

Accordingly, because the prior art does not disclose each and every limitation of the claimed invention, Applicants respectfully request that the rejections of claims 8, 11, 16 and 17 under 35 U.S.C. § 102(e) be withdrawn.

CONCLUSION

It is respectfully submitted that each of the presently pending claims are in condition for allowance and notification to that effect is requested. The Examiner is invited to contact the Applicants' representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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